

**REMARKS**

Claims 1-5 are pending in this application. Claim 1 is an independent claim. Claims 2-5 are dependent claims. Claims 6-26 have been withdrawn from consideration.

Claims 1-5 have been rejected. Amendments to claims 2-5 are presented herein. Claim 2 has been rewritten in independent form. Claim 1 has been cancelled in this response. No new matter is being presented, and approval and entry are respectfully requested.

**Rejections Under 35 U.S.C. § 102**

In numbered paragraph 3 on page 2 of the Office Action, the Examiner rejected claims 1 and 2 under 35 U.S.C. § 102(b) as being anticipated by MacFarlane (U.S. Patent No. 4,463,816).

In numbered paragraph 4 on pages 2 and 3 of the Office Action, the Examiner rejected claims 1 and 2 under 35 U.S.C. § 102(b) as being anticipated by Cadou et al. (U.S. Patent No. 5,747,747).

In numbered paragraph 5 on page 3 of the Office Action, the Examiner rejected claims 1, 2, 4, and 5 under 35 U.S.C. § 102(b) as being anticipated by Del Rosso (U.S. Patent No. 4,570,729).

Applicant respectfully traverses these rejections for the reasons presented below.

Independent claim 2 recites that “the conveyor apparatus is arranged immediately above the housing and the supporting member, after having protruded outwardly from the bottom surface of the housing, extends upwardly of the housing towards the conveyor apparatus.”

The Examiner has asserted that the load cells 14, 16, and 18 of MacFarlane disclose the load detector as recited in claim 2. The Examiner has also asserted that the mounting channels 86 and the cross plate 96 of MacFarlane disclose the housing as recited in claim 2, and that the weigh frame 12 of MacFarlane discloses the support member as recited in claim 2. However, claim 2 specifies that the supporting member protrudes outwardly from the bottom of the housing, and then extends upwards towards the conveyor apparatus. The weigh frame 12 of

MacFarlane does not extend upwards toward the conveyor 22. Thus, it is submitted that claim 2 patentably distinguishes over the MacFarlane reference.

The Examiner has asserted that the load cell 56, the housing 52, and the bearing assemblies 40 of Cadou respectively disclose the load detector, the housing, and the support member as recited in claim 2. However, the bearing assemblies 40 of Cadou do not extend upwardly toward the conveyor apparatus (see FIGs. 1, 2, and 10). In addition, the conveyor belt 12 of Cadou is not immediately above the housing 52, as recited in claim 2. Thus, it is submitted that claim 2 patentably distinguishes over the Cadou reference.

The Examiner has asserted that the load cell 80, 180, the chassis/cage 40, 140, and the bottom plate 48, 148 of Del Rosso respectively disclose the load detector, the housing, and the support member as recited in claim 2.

Referring to FIGs. 4, 5, and 9 of Del Rosso, the chassis/cage 40, 140 of Del Rosso has a cradle-like shape, and the bottom plate 48, 148 is provided to form a box-like cradle (Del Rosso at col. 3, lines 60-66 and col. 5, lines 49-58). Thus, the bottom plate 48, 148 is within or a part of the chassis/cage 40, 140 and does not protrude outwardly from a bottom surface of the chassis/cage 40, 140. While FIG. 8 of Del Rosso shows a bottom plate 200 below the chassis/cage 140, the bottom plate 200 does not extend upwardly toward the conveyor apparatus. Thus, it is submitted that claim 2 patentably distinguishes over the Del Rosso reference.

Claims 4 and 5 depend from claim 2 and are patentable over the prior art for at least the reasons discussed above.

Claim 1 has been cancelled in this Response.

Therefore, Applicant submits that claims 2, 4, and 5 patentably distinguish over the prior art. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejections under § 102.

#### **Rejections Under 35 U.S.C. § 103(a)**

In numbered paragraph 7 on pages 3 and 4 of the Office Action, the Examiner rejected dependent claim 3 under 35 U.S.C. § 103(a) as being unpatentable over MacFarlane in view of

Marlow et al. (U.S. Patent No. 5,563,384) and Blubaugh (U.S. Patent No. 3,561,553). Claim 3 depends from the above-discussed claim 2 and should be patentable for at least the reasons discussed above. We note that it appears the Examiner meant to cite Lockery et al. (U.S. Patent No. 4,411,327) rather than the Blubaugh reference in rejecting claim 3.

In numbered paragraph 8 on page 4 of the Office Action, the Examiner rejected claims 1, 4, and 5 under 35 U.S.C. § 103(a) as being unpatentable over Lindstrom (U.S. Patent No. 4,566,584) in view of Marlow and Lockery (U.S. Patent No. 4,411,327). We note that it appears the Examiner meant to cite the Blubaugh reference rather than the Marlow reference in rejecting claims 1, 4, and 5.

Claim 2 has been rewritten in independent form. The Examiner has asserted that Lindstrom discloses all features of claim 2, except for the housing. However, the present invention does not merely provide a protective cover over a machine. In the present invention, the housing is positioned such that the supporting member protrudes from the bottom of the housing and then extends upwards toward the conveyor apparatus. Thus, it would not have been obvious to merely provide a housing to the device of Lindstrom. Furthermore, even if a housing is added to Lindstrom, Lindstrom would still not disclose a supporting member that protrudes outwardly from the bottom of the housing and then extends upwardly toward a conveyor apparatus, or that the conveyor apparatus is located immediately above the housing.

Claims 4 and 5 depend from claim 2 and are patentable over the prior art for at least the reasons discussed above.

Therefore, Applicant submits that claims 2-5 patentably distinguish over the prior art. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejections under § 103.

#### **Request for Return of Form PTO-1449**

Applicant filed an Information Disclosure Statement with a Form PTO-1449 on December 17, 2001 and January 30, 2004. Copies of the 1449 forms have not yet been returned to the applicant to confirm that the references cited therein have been considered.

Accordingly, it is requested that the Examiner confirm consideration of these references by initialing and returning the 1449 forms.

**Conclusion**

In accordance with the foregoing, it is respectfully submitted that all outstanding rejections have been overcome and/or rendered moot, and further, that all pending claims patentably distinguish over the prior art. Thus, there being no further outstanding rejections, the application is submitted to be in condition for allowance, which action is earnestly solicited.

If there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

Finally, if there are any additional fees associated with filing of this response, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

STAAS & HALSEY LLP

Date: 4/26/04

By: C. Joan Gilsdorf  
Christine Joan Gilsdorf  
Registration No. 43,635

1201 New York Avenue, N.W.  
Suite 700  
Washington, D.C. 20005  
Telephone: (202) 434-1500  
Facsimile: (202) 434-1501